

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 4, is amended by adding the following as a new appropriately designated section:

65-4-_____. **Declaration Of Telecommunications Services Policy.** The General Assembly declares that it is in the public interest and the interest of Tennessee consumers to permit and foster competition in telecommunications service markets without unreasonable prejudice or disadvantage to any provider and to provide for alternative forms of regulation to accomplish these purposes. In facilitating the change to a competitive telecommunications service market, the General Assembly finds that universal Basic Local Exchange Telephone Service shall be preserved and rates charged to residential customers for essential telecommunications services shall remain affordable.

SECTION 2. Tennessee Code Annotated, Section 65-4-101 is amended by adding the words and punctuation "telecommunications services," between the comma following the word "telegraph" and the words "or any other like system."

SECTION 3. Tennessee Code Annotated, Section 65-4-101, is amended by adding the following new language as Subsections (c), (d), (e), (f), (g), and (h):

(c) "Telecommunications Service Provider" means any certificated individual, entity, or Incumbent Local Exchange Telephone Company that offers or provides for hire any telecommunications service, telephone service, telegraph service, paging service, or

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

communications service similar to such services unless otherwise exempted from this definition by state or federal law.

(d) "Incumbent Local Exchange Telephone Company" means a public utility offering and providing Basic Local Exchange Telephone Service as defined by Section 65-5-208 pursuant to tariffs approved by the Commission prior to the effective date of this Act.

(e) "Competing Telecommunications Service Provider" means any individual or entity that offers or provides any two-way communications service, telephone service, telegraph service, paging service, or communications service similar to such services and is certificated as a provider of such services after the effective date of this Act unless otherwise exempted from this definition by state or federal law.

(f) "Interconnection Services" means telecommunications services, including intrastate switched access service, that allow a Telecommunications Service Provider to interconnect with the networks of all other Telecommunications Service Providers.

(g) "Current Authorized Fair Rate of Return" means:

(1) for an Incumbent Local Exchange Telephone Company operating pursuant to a regulatory reform plan ordered by the Commission under TPSC Rule 1220-4-2-.55, any return within the range contemplated by Section 1220-4-2-.55 (1)(c)(1) or 1220-4-2-.55 (d);

(2) for any other Incumbent Local Exchange Telephone Company, the rate of return on rate base most recently used by the Commission in an order evaluating its rates.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

(h) "Gross Domestic Product-Price Index (GDP-PI)" used to determine limits on rate changes means the final estimate of the Chain-Weighted Gross Domestic Product-Price Index as prepared by the U.S. Department of Commerce and published in the Survey of Current Business, or its successor.

SECTION 4. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language:

Section 65-5-207: **Universal Service.**

(a) Universal service, consisting of residential Basic Local Exchange Telephone Service at affordable rates and carrier-of-last-resort obligations must be maintained after the local telecommunications markets are opened to competition. In order to insure the availability of affordable residential Basic Local Exchange Telephone Service, the Commission shall formulate policies and promulgate rules which require all Telecommunications Service Providers to contribute to the support of universal service.

(b) The Commission shall, within thirty (30) days of the effective date of this Act, initiate a generic contested case proceeding to determine the cost of providing universal service, determine current sources of support for universal service and their associated amounts, identify and assess alternative universal service support mechanisms, and determine the need and timetable for modifying current universal service support mechanisms and implementing alternative universal service support mechanisms. The Commission shall issue its decision in the universal service proceeding prior to January 1, 1996.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

(c) The Commission shall create an alternative universal service support mechanism that replaces current sources of universal service support only if it determines that the alternative will preserve universal service, protect consumer welfare, be fair to all Telecommunications Service Providers, and prevent the unwarranted subsidization of any Telecommunications Service Provider's rates by consumers or by another Telecommunications Service Provider. To accomplish these objectives, the Commission, if it creates or subsequently modifies an alternative universal service support mechanism, shall:

(1) restrict recovery from the mechanism by any Telecommunications Service Provider to an amount equal to the support necessary to provide universal service;

(2) consider provision of universal service by Incumbent Local Exchange Telephone Companies and by other Telecommunications Service Providers;

(3) order only such contributions to the universal service support mechanism as are necessary to support universal service and fund administration of the mechanism;

(4) administer the universal service support mechanism in a competitively neutral manner, and in accordance with established Commission rules and federal statutes;

(5) determine the financial effect on each universal service provider caused by the creation or a modification of the universal service support mechanism, and rebalance the effect through a one-time adjustment of equal amount to the rates of that provider;

(6) when ordering a modification, include changes in the cost of providing universal service in the rebalancing required by subsection (5);

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

(7) when performing its duties under subsections (5) and (6), order no increase in the rates for any Interconnection Services; and

(8) consider, at a minimum:

(i) the amount by which the embedded cost of providing residential Basic Local Exchange Telephone Service exceeds the revenue received from the service, including the cost of the carrier-of-last-resort obligation, for both high- and low-density service areas;

(ii) the extent to which rates for residential Basic Local Exchange Telephone Service should be required to meet the standards of Section 65-5-208(c);

(iii) intrastate access rates and the appropriateness of such rates as a significant source of universal service support.

SECTION 5. Tennessee Code Annotated, Section 65-4-203, is amended by adding the following new Subsection (c):

(c) The provisions of this Section shall not apply to Telecommunications Service Providers.

SECTION 6. Tennessee Code Annotated, Section 65-4-207, is amended by designating the existing language as Subsection (a) and by adding the following new Subsection (b):

(b) The provisions of this section shall not apply to Telecommunications Service Providers; provided, however, this section shall continue to apply with respect to any ordinance adopted, and any franchise granted pursuant to such an ordinance, prior to the effective date of this Act.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

SECTION 7. Tennessee Code Annotated, Section 65-4-201, is amended by designating the existing language as subsection (a) and by adding new subsections (b), (c) and (d) as follows:

(b) No individual or entity shall offer or provide any individual or group of telecommunications services, or extend its territorial area of operations without first obtaining from the Commission a certificate of convenience and necessity for such service or territory; provided, however, an Incumbent Local Exchange Telephone Company shall not be required to obtain such certificate to continue to offer services being provided as of the effective date of this Act.

(c) After notice to the Incumbent Local Exchange Telephone Company and other interested parties and following a hearing, the Commission shall grant a certificate of convenience and necessity to a Competing Telecommunications Service Provider if after examining the evidence presented, the Commission finds:

(i) The applicant has demonstrated that it will adhere to all applicable Commission policies, rules and orders; and

(ii) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

A Commission order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a Competing

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

Telecommunications Service Provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) shall not be applicable to areas served by an Incumbent Local Exchange Telephone Company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a Competing Telecommunications Service Provider or unless such Incumbent Local Exchange Telephone Company applies for a certificate to provide telecommunications services in an area outside its service area existing on the effective date of this Act.

SECTION 8. Tennessee Code Annotated, Title 65, Chapter 4, is amended by adding the following as a new appropriately designated section:

65-4-_____. **Administrative Rules.**

(a) Prior to January 1, 1996, the Commission shall, at a minimum, promulgate rules and issue such orders necessary to implement reasonable terms and conditions providing for non-discriminatory interconnection among the networks of all Telecommunications Service Providers, unbundling of service elements and functions, terms for resale, interLATA presubscription, packaging of a Basic Local Exchange Telephone Service or unbundled features or functions with services of other providers and number portability.

(b) All Telecommunications Service Providers shall, to the extent that it is technically and financially feasible, be provided desired features, functions, and service promptly, and on

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

an unbundled and non-discriminatory basis from all other Telecommunications Service Providers.

(c) The granting of applications for certificates of convenience and necessity to Competing Telecommunications Service Providers or the adoption of a price regulation plan for Incumbent Local Exchange Telephone Companies shall not be dependent upon the promulgation of these rules.

SECTION 9. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as:

Section 65-5-208. **Competitive Rules**

(a) Services of Incumbent Local Exchange Telephone Companies who apply for price regulation under Section 65-5-209 shall be classified as follows:

1. "Basic Local Exchange Telephone Services" are telecommunications services which are comprised of an access line, dial tone, touchtone and usage provided to the premises of residential customers or business customers for the provision of high quality, two way switched voice transmission, within a local calling area, or other services required by state or federal statute.

2. "Non-Basic Services" are telecommunications services which are not defined as Basic Local Exchange Telephone Services and are not exempted under subsection (b).

(b) The Commission, after notice and opportunity for hearing, may find that the public interest is served by exempting a service or group of services from all or a portion of the

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

requirements of this part. Upon making such a finding, the Commission may exempt Telecommunications Service Providers from such requirements as appropriate. The Commission shall in any event exempt a telecommunications service for which existing and potential competition is an effective regulator of the price of those services.

(c) Effective January 1, 1996, an Incumbent Local Exchange Telephone Company shall adhere to a price floor for its competitive services subject to such determination as the Commission shall make pursuant to Section 65-5-207. The price floor shall equal the Incumbent Local Exchange Telephone Company's tariffed rates for essential elements utilized by Competing Telecommunications Service Providers plus the total long-run incremental cost of the competitive elements of the service. When shown to be in the public interest, the Commission shall exempt a service or group of services provided by an Incumbent Local Exchange Telephone Company from the requirement of the price floor. The Commission shall, as appropriate, also adopt other rules or issue orders to prohibit cross-subsidization, preferences to competitive services or affiliated entities, predatory pricing, price squeezing, price discrimination, tying arrangements or other anti-competitive practices.

(d) The maximum rate for any new Non-Basic Service first offered after the effective date of this Act shall not exceed the stand alone cost of the service.

SECTION 10. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as:

Section 65-5-209. **Price Regulation Plan**

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

(a) Rates for telecommunications services are just and reasonable when they are determined to be affordable as set forth in this Section. Using the procedures established in this Section, the Commission shall insure that rates for all Basic Local Exchange Telephone Services and Non-Basic Services are affordable on the effective date of price regulation for each Incumbent Local Exchange Telephone Company.

(b) An Incumbent Local Exchange Telephone Company shall, upon approval of its application under Subsection (c), be empowered to, and shall charge and collect only such rates that are less than or equal to the maximum permitted by this Section and subject to the safeguards in Section 65-5-208 (c) and (d) and the non-discrimination provisions of this Title.

(c) The Commission shall enter an order within ninety (90) days of the application of an Incumbent Local Exchange Telephone Company implementing a price regulation plan for such company. With the implementation of a price regulation plan, the rates existing on the effective date of this Act for all Basic Local Exchange Telephone Services and Non-Basic Services as defined in Section 65-5-208 are deemed affordable if the Incumbent Local Exchange Telephone Company's earned rate of return on its most recent Commission staff-audited TPSC 3.01 report is equal to or less than the Company's Current Authorized Fair Rate of Return existing at the time of the Company's application. If the Incumbent Local Exchange Telephone Company's earned rate of return on its most recent Commission staff-audited TPSC 3.01 report is greater than the Company's Current Authorized Fair Rate of Return, the Commission shall initiate a proceeding to establish the initial rates on which the price regulation plan is based.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

The Commission shall initiate such a rate-setting proceeding to determine a fair rate of return on the Company's rate base using only the actual intrastate operating revenues, expenses, rate base and capital structure from the Company's most recent Commission staff-audited TPSC 3.01 report. If the Incumbent Local Exchange Telephone Company's earned rate of return is less than its Current Authorized Fair Rate of Return, the Company may request the Commission to initiate a proceeding to establish the initial rates upon which the price regulation plan is based. Upon request by the Incumbent Local Exchange Telephone Company, the Commission shall initiate such a proceeding using the same rate-setting procedures described above. Rates established pursuant to the above process shall be the initial rates on which a price regulation plan is based, subject to such further adjustment as may be made by the Commission pursuant to Section 65-5-207.

(d) If not resolved by agreement, the Commission shall establish initial rates for new Interconnection Services provided by an Incumbent Local Exchange Telephone Company subsequent to the effective date of this Act.

(e) A price regulation plan shall maintain affordable Basic and Non-Basic rates by permitting a maximum annual adjustment that is capped at one-half the percentage change in inflation for the United States using the Gross Domestic Product-Price Index (GDP-PI) from the preceding year as the measure of inflation. An Incumbent Local Exchange Telephone Company may adjust its rates for Basic Local Exchange Telephone Services or Non-Basic Services only so long as its aggregate revenues for Basic Local Exchange Telephone Services

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

or Non-Basic Services generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by the price regulation plan.

(f) Notwithstanding the annual adjustments permitted in subsection (e), the initial Basic Local Exchange Telephone Service rates of an Incumbent Local Exchange Telephone Company subject to price regulation shall not increase for a period of four years from the date the Incumbent Local Exchange Telephone Company becomes subject to such regulation. At the expiration of the four year period, an Incumbent Local Exchange Telephone Company shall be permitted to adjust annually its rates for Basic Local Exchange Telephone Services in accordance with the method set forth in subsection (e) provided that in no event shall the rate for residential Basic Local Exchange Telephone Service be increased in any one year by more than the percentage change in inflation for the United States using the Gross Domestic Product-Price Index (GDP-PI) from the preceding year as the measure of inflation.

(g) Notwithstanding any other provision of this Act, a price regulation plan shall permit a maximum annual adjustment in the rates for Interconnection Services that is capped at one-half the percentage change in inflation for the United States using the Gross Domestic Product-Price Index (GDP-PI) from the preceding year as the measure of inflation. An Incumbent Local Exchange Telephone Company may adjust its rates for Interconnection Services only so long as its aggregate revenues generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by this subsection, provided that each new rate must comply with the requirements of Section 65-5-208 and the non-discrimination provisions of

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 891 House Bill No. 695

this Title. Upon filing by a Competing Telecommunications Service Provider of a notice of objection, such rate adjustment shall become subject to Commission review of the adjustment's compliance with the provisions of this Act and rules promulgated under this Act. The Commission shall enter a final order approving, modifying or rejecting such adjustment within thirty (30) days of the notice of objection.

(h) Incumbent Local Exchange Telephone Companies subject to price regulation may set rates for Non-Basic Services as the company deems appropriate, subject to the limitations set forth in subsections (e) and (g), the non-discrimination provisions of this Title and any rules or orders issued by the Commission pursuant to Section 65-5-208(c).

(i) Incumbent Local Exchange Telephone Companies subject to price regulation shall not be required to seek regulatory approval of their depreciation rates or schedules.

SECTION 11. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as:

Section 65-5-210. **Commission Jurisdiction**

In addition to any other jurisdiction conferred, the Commission shall have the original jurisdiction to investigate, hear and enter appropriate orders to resolve all contested issues of fact or law arising as a result of the application of this Act.

SECTION 12. This Act shall take effect upon becoming a law, the public welfare requiring it.